

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE COLLEGE ATHLETE NIL
LITIGATION

Case No. 4:20-cv-03919-CW

**[PROPOSED] ORDER REGARDING
THIRD-PARTY CLAIMS BUYOUT
SERVICES**

Hon. Claudia Wilken

1 This matter comes before the Court on Plaintiffs' Renewed Motion for a Prospective Order
 2 Concerning Third-Party Claims Buyout Services ("Motion"). Upon consideration of the foregoing
 3 Motion, the papers submitted in support and opposition thereto, and good cause appearing,

4 **IT IS HEREBY ORDERED AND DECREED** as follows:

5 1. All Third-Party Claim Buyers seeking to purchase Class Members' settlement claims
 6 should be required to fully disclose the potential tax implications of the settlement distributions to
 7 Class Members prior to signing any contract related to the claims in this Settlement. The following
 8 disclosure should be provided at least twice, with one being included in the initial solicitation or
 9 marketing materials and the other with any sale or transaction agreement:

10 **WARNING ABOUT POTENTIAL TAX CONSEQUENCES**

11 You should seek advice from a registered tax preparer or competent tax advisor
 12 about your tax obligations for any payments that you are entitled to receive under
 13 the Settlement. However, the Court overseeing the Settlement has directed us to
 14 provide the following disclosure:

15 **THE TAX CONSEQUENCES OF ANY AGREEMENT YOU SIGN
 16 REGARDING YOUR CLAIM MAY VARY DEPENDING ON THE
 17 SPECIFIC TERMS OF THAT AGREEMENT. WITH CERTAIN
 18 TRANSACTION STRUCTURES, YOU MAY BE REQUIRED TO PAY
 19 INCOME TAXES ON THE *FULL AMOUNT OF THE PAYMENTS THAT
 20 YOU ARE ENTITLED TO UNDER THE SETTLEMENT (EVEN IF THE
 21 RESULTING TAX LIABILITY EXCEEDS THE AMOUNT YOU
 22 RECEIVED UNDER THE AGREEMENT).***

23 **A TRANSACTION STRUCTURED AS AN OUTRIGHT OR "TRUE" SALE
 24 MAY REMOVE FUTURE SETTLEMENT PAYMENTS FROM YOUR
 25 GROSS INCOME FOR FEDERAL AND STATE INCOME TAX PURPOSES,
 26 IN WHICH CASE YOU WOULD INSTEAD LIKELY PAY TAX ON THE
 27 PURCHASE PRICE YOU RECEIVE. AS A RESULT OF A SALE, YOU
 28 WOULD ALSO BE FORFEITING ANY AND ALL RIGHTS TO RECEIVE
 29 ADDITIONAL INCOME OR FUTURE PAYMENTS UNDER THE FOURTH
 30 AMENDED STIPULATION AND SETTLEMENT AGREEMENT, IN RE:
 31 *COLLEGE ATHLETE NIL LITIGATION, NO. 4:20-CV-03919* (THE
 32 "SETTLEMENT AGREEMENT"). YOU SHOULD CONSULT WITH A
 33 COMPETENT TAX ADVISOR REGARDING THE SPECIFIC TAX
 34 CONSEQUENCES OF YOUR PARTICULAR AGREEMENT BEFORE
 35 SIGNING THE AGREEMENT.**

1 Additional information, including information about the potential tax consequences
 2 of selling your right to receive settlement payments, may be found on the Settlement
 3 website at: [LINK TO FAQ WITH THIS INFO]

4 2. Class Counsel and the Claims Administrator will continue to monitor Third-Party Claim
 5 Buyers to ensure that they comply with any Order of the Court and will provide any such entities
 6 that contact Class Counsel or the Claims Administrator with this Order.

7 3. Class Counsel shall update the settlement website with an FAQ regarding the potential
 8 tax implications of payments from third-party claims buying entities.

9 4. The QSF shall not provide direct disbursements of settlement funds to non-Class
 10 Members except to Third-Party Claim Buyers that have completed outright purchases of claims
 11 from Class Members and those purchases are completed prior to the exhaustion of any appeals in
 12 the case.

13 5. With respect to outright sales of claims that are completed prior to the exhaustion of any
 14 appeals, all Third-Party Claim Buyers wishing to obtain direct disbursements from the QSF shall
 15 be required to promptly notify the QSF in writing within 15 days of closing the sales transaction
 16 or, for existing claim sales, within 15 days of the date of this Order, of both the sale and the identity
 17 of the Third-Party Claim Buyer of the claim by sending an email to the claims administrator and
 18 provide the QSF with (i) a copy of a true bill of sale and (ii) a signed indemnification form. That
 19 indemnification form shall use the following language:

20 **INDEMNIFICATION OF TAX LIABILITIES**

21 Purchaser hereby represents for the benefit of Verita Global LCC that this Bill of
 22 Sale was entered into with full transparency, complete disclosure, and without any
 23 misleading statements, coercion, or material omissions from or by Purchaser to
 24 Seller. Purchaser further assumes full responsibility for determining the eligibility
 25 of the Seller as a class member and bears the risk of, and sole responsibility for,
 26 ensuring that it is legally entitled to receive any payment from the Settlement Funds,
 27 including with respect to confirming that no laws, regulations, court orders, or other
 28 lienholders or payees have a superior or conflicting claim to the same funds or
 otherwise restrict or limit a third party's eligibility to receive payment. Purchaser
 further acknowledges that Verita Global LLC shall have no responsibility for the
 evaluation of competing claims or priorities among lienholders or other third parties.

1 Purchaser hereby also agrees to indemnify and hold Verita Global LLC, the
2 Qualified Settlement Fund (the “Fund”) and any and all of its respective [directors,
3 managers, employees, and controlling persons] (each, “Indemnified Party”)
4 harmless from and against and agrees to defend, and will pay to each Indemnified
5 Party the amount of, any and all losses (including attorneys’ fees) awarded against
6 or incurred or suffered by such Indemnified Party, whether or not involving a third-
7 party claim, demand, action or proceeding, arising out of any and all claims,
8 demands, obligations, losses, liabilities, damages, costs and expenses (including
9 U.S. federal taxes, state and local income taxes, withholding taxes, and any interest
or penalties) which the Indemnified Party may suffer as a result of any claims,
liabilities or charges asserted against it by the Internal Revenue Service (the “IRS”)
or any state or local tax authority with respect to the filing and reporting (or failing
to file and report) any returns or reports relating to the sale of the claim hereunder,
and any subsequent payments, required by the IRS or any state and local tax
authority.

10 If any claim, demand, action or proceeding (including any investigation by any
11 governmental authority) shall be brought or alleged against an Indemnified Party in
12 respect of which indemnity is to be sought pursuant to this Bill of Sale, the
13 Indemnified Party shall, as soon as reasonably practicable after receipt of notice of
14 the commencement of any such claim, demand, action or proceeding, notify
15 Purchaser in writing of the commencement of such claim, demand, action or
proceeding, enclosing a copy of all papers served, if any; provided, that the omission
to so notify Purchaser will not relieve Purchaser from any liability that it may have
to the Indemnified Party under this Bill of Sale.

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IT IS SO ORDERED.

18 DATED: _____

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20 HONORABLE CLAUDIA WILKEN
21 UNITED STATES DISTRICT JUDGE
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